

FILED
MISSOULA, MT

2006 JUN 8 AM 11 48

IN THE UNITED STATES DISTRICT COURT
PATRICK E. DUFFY
FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION DEPUTY CLERK

WILLIAM PAUL BEST)	CV 05-57-M-DWM
)	
Petitioner,)	
)	ORDER
vs.)	
)	
MIKE MAHONEY, Warden,)	
Montana State Prison)	
)	
Respondent.)	
)	

On May 11, 2005, United States Magistrate Judge Leif B. Erickson entered an Order and Findings and Recommendation on Petitioner's writ of habeas corpus. On June 20, 2005, Plaintiff timely objected (doc. 7) and is therefore entitled to *de novo* review of the record. 28 U.S.C. § 636 (b)(1).

Petitioner's writ of habeas corpus is improper on its face because it was filed after Petitioner had been released from custody, and the newly filed objections do nothing to alleviate this problem. The purpose of the writ of habeas corpus is to provide a currently incarcerated inmate an avenue to redress constitutional violations. Habeas relief will not be granted and should not be sought in situations where the petitioner is seeking to correct a sentence previously served and fully discharged. *Aaron v. Peppersas*, 790 F.2d 1360, 1361 (9th Cir.

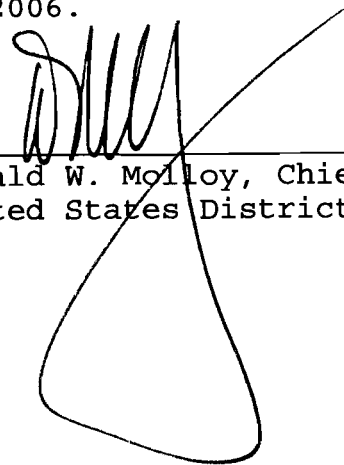
1986). The Petitioner here is no longer in custody and thus filing a petition for writ of habeas corpus fails to meet the threshold of Rule 4 of the Rules Governing Section 2254 Cases, which gives the authority to dismiss petitions where petitioner will not be entitled to relief. Without an available remedy, the Petitioner does not have a stake in this particular law suit and does not meet the case-or-controversy requirement of Article III, § 2, of the United States Constitution that is necessary for federal jurisdiction. This case is therefore moot as there is nothing the petition for writ of habeas corpus can do for the Petitioner.

Based on the foregoing reasons, this Court adopts Judge Erickson's Order and Findings and Recommendation in full.

Accordingly, **IT IS HEREBY ORDERED:**

Petitioner's Writ of Habeas Corpus is **DISMISSED AS MOOT.**

DATED this 8 day of June, 2006.



Donald W. Molloy, Chief Judge
United States District Court